

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RONALD KIRK BROWN,

Plaintiff,

v.

Civil No. 09-14211

Hon. Lawrence P. Zatkoff

CO. HARRINGTON et al.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff, proceeding *pro se*, filed a civil-rights complaint [dkt 1] under 42 U.S.C. § 1983 alleging that Defendants have violated certain of his constitutional rights, including allegations that he was denied access to the law library and was physically assaulted by prison staff. The matter is currently before the Court on Magistrate Judge Hluchaniuk's Report and Recommendation [dkt 45], in which the Magistrate Judge recommends that the Court dismiss Plaintiff's complaint for failure to prosecute and deny as moot Defendants' motion to dismiss or for summary judgment [dkt 36]. Plaintiff filed a pleading, entitled "Plaintiff's (sic) Response to Original Motion Including a Written Brief," which the Court will construe as an objection to the Report and Recommendation.¹ Defendants have filed a reply to Plaintiff's objection.

The Court has thoroughly reviewed the court file, the Report and Recommendation, and the parties' filings. With respect to all six of Plaintiff's objections, he argues that he attempted to timely respond. However, such responses were untimely for essentially two reasons: (1) Plaintiff was denied use of the photocopying services, and (2) Plaintiff sent requests and documents to Attorney

¹ Plaintiff's pleading is fifty-one pages. The first six pages appear irrelevant, however, beginning at the sixth page, Plaintiff has raised six objections. The remaining pages contain exhibits.

General Mike Cox to ensure his office timely filed the appropriate papers with the Court. The Court rejects Plaintiff's objections because he was provided substantial periods of time to file documents with the Court. Plaintiff's response to Defendant's October 25, 2010, motion to dismiss or for summary judgment was due by December 10, 2010. Plaintiff was then provided an opportunity to file a response to the Court's show-cause order by May 27, 2011. Plaintiff, although able to file his initial Complaint with this Court, was unable to timely file a response to Defendant's motion or the Court's show-cause order. Further, filing documents with the Attorney General, or requesting that the Attorney General ensure that Plaintiff's documents are timely filed is not good cause to excuse Plaintiff's delay. As a result, the Court ADOPTS the Report and Recommendation [dkt 45] and enters it as the findings and conclusions of this Court.

Accordingly, IT IS HEREBY ORDERED that Plaintiff's complaint be DISMISSED for failure to prosecute.

IT IS FURTHER ORDERED that Defendants' motion to dismiss or for summary judgment [dkt 36] is DENIED AS MOOT. Judgment shall be entered accordingly.

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: August 8, 2011

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on August 8, 2011.

S/Marie E. Verlinde

Case Manager
(810) 984-3290